

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JENNIFER COOK,

Plaintiff(s),

Index #08-CV-4914

-against-

**VERIFIED ANSWER**

THE GAP, INC.,

Defendant(s).

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Defendant, THE GAP, INC., by its attorneys, **McANDREW, CONBOY & PRISCO**, answers the Complaint of the plaintiff as follows:

**JURISDICTION AND VENUE**

1. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraph of the Complaint designated as “1”.
2. Admits each and every allegation contained in the paragraph designated as “2”.
3. Denies each and every allegation contained in the paragraph designated as “3”, and refers all questions of law and fact to this Honorable Court.
4. Denies each and every allegation contained in the paragraph designated as “4”, and refers all questions of law and fact to this Honorable Court.

**GENERAL ALLEGATIONS**

5. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraph of the Complaint designated as “5”.

6. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraph of the Complaint designated as “6”.

7. Admits each and every allegation contained in the paragraph designated as “7”.

8. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraph of the Complaint designated as “8”.

9. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraph of the Complaint designated as “9”.

10. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraph of the Complaint designated as “10”.

11. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraph of the Complaint designated as “11”.

12. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraph of the Complaint designated as “12”.

13. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraph of the Complaint designated as “13”.

**AS TO THE FIRST CAUSE OF ACTION ON BEHALF  
OF PLAINTIFF JENNIFER COOK FOR PERSONAL  
INJURIES BASED ON NEGLIGENCE**

14. Repeats and reiterates each and every denial contained in the paragraphs of this Answer numbered “1” through “13”, to each and every allegation contained in the paragraph of the Complaint designated as “14”.

15. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraph of the Complaint designated as “15”.

16. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraph of the Complaint designated as “16”.

17. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in the paragraph of the Complaint designated as “17”.

18. Denies each and every allegation contained in the paragraphs of the Complaint designated as “18”.

19. Denies each and every allegation contained in the paragraphs of the Complaint designated as “19”.

20. Denies knowledge or information sufficient to form a belief as to

each and every allegation contained in the paragraph of the Complaint designated as “20”.

21. Denies each and every allegation contained in the paragraphs of the Complaint designated as “21”.

22. Denies each and every allegation contained in the paragraphs of the Complaint designated as “22”.

23. Denies each and every allegation contained in the paragraphs of the Complaint designated as “23”.

24. Denies each and every allegation contained in the paragraphs of the Complaint designated as “24”.

25. Denies each and every allegation contained in the paragraphs of the Complaint designated as “25”.

26. Denies each and every allegation contained in the paragraphs of the Complaint designated as “26”.

27. Denies each and every allegation contained in the paragraphs of the Complaint designated as “27”.

**AS AND FOR A FIRST SEPARATE AND  
DISTINCT AFFIRMATIVE DEFENSE:**

That the fault, negligence and culpable conduct of the plaintiffs herein, either in whole or in part, caused the incident in which the plaintiffs were injured and/or injuries resulting therefrom.

**AS AND FOR A SECOND SEPARATE AND  
DISTINCT AFFIRMATIVE DEFENSE:**

Upon information and belief, any past or future costs or expenses incurred or to be incurred by the plaintiff for medical care, dental care, custodial care or rehabilitative service, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from a collateral source as defined in Section 4545(c) of the New York Civil Practice Law and Rules, and consequently, if any damages are recoverable against the said answering defendant, the amount of such damages shall be diminished by the amount of the fund which plaintiff has or shall receive from such collateral source.

**AS AND FOR A THIRD SEPARATE AND  
DISTINCT AFFIRMATIVE DEFENSE:**

That if any liability is found against this answering defendant, then said liability will constitute 50% or less of the total liability assigned to all persons liable and, as such, the liability of this answering defendant to plaintiff for non-economic loss shall be limited and shall not exceed this answering defendant's equitable share, as provided in Article 16 of the CPLR.

**AS AND FOR A FOURTH SEPARATE AND  
DISTINCT AFFIRMATIVE DEFENSE:**

That the risks and dangers, if any, were open, obvious, notorious and apparent.

**DEMAND FOR JURY TRIAL**

Defendant hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

**WHEREFORE**, the answering defendant(s) demand(s) judgment dismissing the Complaint of the plaintiff(s) herein together with the costs and disbursements of this action.

The signature certifies that to the best of the certifier's knowledge the statements in this paper are correct.

Dated: Woodbury, New York  
July 8, 2008

YOURS, etc.,

/s/ PETER G. PRISCO

McANDREW, CONBOY & PRISCO

By: PETER G. PRISCO (7397)

Attorneys for the Defendant(s)

95 Froehlich Farm Boulevard

Woodbury, New York 11797

(516) 921-8600

TO: KREINDLER & KREINDLER, LLP  
Attorneys for Plaintiff  
100 Park Avenue  
New York, New York 10017  
(212) 687-8181

### ATTORNEY VERIFICATION

The undersigned, an attorney admitted to practice in the Courts of the State of New York, shows:

That affirmant is a member of the firm of McAndrew, Conboy and Prisco, Esqs., attorneys for the defendant in the within action; that affirmant has read the foregoing ANSWER and knows the contents thereof; that same is true to affirmant's knowledge, except as the matters herein stated to be alleged on information and belief; and that as to those matters, affirmant believes it to be true.

Affirmant further states that the reason this Verification is made by affirmant and not by the defendant is that the defendant either does not reside or maintain offices in the County in which the affirmant maintains his office.

The grounds of belief as to all matters not stated upon deponent's knowledge are documents, correspondence and records maintained in your affirmant's files and conversations and conferences had with the defendant.

The undersigned affirms that the foregoing statements are true under the penalties of perjury.

Dated: Woodbury, New York  
July 8, 2008

/s/~~PETER G. PRISCO~~  
PETER G. PRISCO (7397)



STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NASSAU )

JOANNE RELLER, being duly sworn says:

That deponent is not a party to this action, is over 18 years of age, and resides at Greenlawn, New York.

That on July 8, 2008, deponent served the within VERIFIED ANSWER and RULE 7.1 DISCLOSURE by mailing the same in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the United States Postal Service within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

TO: KREINDLER & KREINDLER, LLP  
Attorneys for Plaintiff  
100 Park Avenue  
New York, New York 10017  
(212) 687-8181

/s/JoAnne Reller  
JOANNE RELLER

Sworn to before me this  
July 8, 2008

\_\_\_\_\_  
Notary Public